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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARIO CASTRO,

Petitioner,

v.

JAMIE LAMANNA, *Superintendent of the
Green Haven Correctional Facility,*

Respondent.

No. 18-CV-3315 (RA)

ORDER ADOPTING REPORT AND
RECOMMENDATION

RONNIE ABRAMS, United States District Judge:

Petitioner Mario Castro, proceeding *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 in connection with his July 2013 state-law conviction for murder in the second degree. *See* Dkt. 2. On January 22, 2019, the Court denied Petitioner’s motion for a stay so that he could exhaust two ineffective assistance of counsel claims in state court, and ordered him to amend his petition to include only his unexhausted claims. *See* Dkt. 17. Petitioner then filed his Amended Petition on February 28, 2019. *See* Dkt. 19. On March 30, 2020, Magistrate Judge Stewart Aaron issued a Report and Recommendation (the “Report”) recommending that the Court deny the Amended Petition in its entirety. *See* Dkt. 26. Neither Petitioner nor Respondent filed objections to the Report.¹

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may object to a


¹ Judge Aaron’s chambers mailed a copy of the Report to Petitioner at his addressed listed on the docket. *See* Report at 26. Rather than file objections to the Report, on April 16, 2020, Petitioner filed a Notice of Appeal, dated April 7, 2020. *See* Dkt. 27. As indicated on the docket and noted in this Court’s April 21, 2020 Order, *see* Dkt. 28 at 1, Petitioner’s Notice of Appeal is premature at this time. Nonetheless, in light of Petitioner’s *pro se* status and the current COVID-19 crisis, the Court extended Petitioner’s time to file written objections to the Report. *See id.* at 1-2. Respondent mailed a copy of the Court’s April 21, 2020 Order to Petitioner on April 27, 2020. *See* Dkt. 29. Although Petitioner had until May 12, 2020 to file any objections to the Report, *see* Dkt. 28 at 2, he did not do so.

magistrate judge's recommended findings "[w]ithin 14 days after being served with a copy of the recommended disposition." Fed. R. Civ. P. 72(b)(2). That deadline is extended to 17 days when service is made by mail. *See* Fed. R. Civ. P. 6(d). "When the parties make no objections to the Report, the Court may adopt the Report if 'there is no clear error on the face of the record.'" *Smith v. Corizon Health Servs.*, No. 14-CV-8839 (GBD) (SN), 2015 WL 6123563, at *1 (S.D.N.Y. Oct. 16, 2015) (quoting *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005)). "Furthermore, if as here . . . the magistrate judge's report states that failure to object will preclude appellate review and no objection is made within the allotted time, then the failure to object generally operates as a waiver of the right to appellate review." *Hamilton v. Mount Sinai Hosp.*, 331 F. App'x 874, 875 (2d Cir. 2009) (citations omitted).

As no objections to the Report were filed, the Court has reviewed Judge Aaron's Report for clear error. The Court finds no error and thus adopts the thorough and well-reasoned Report in its entirety. Accordingly, the Amended Petition for a writ of habeas corpus is denied, and the action is dismissed. Because the Amended Petition makes no substantial showing of a denial of a constitutional right, the Court will not issue a certificate of appealability. 28 U.S.C. § 2253(c)(2). The Clerk of Court is respectfully directed to mail a copy of this Order to Petitioner and close this case.

SO ORDERED.

Dated: May 28, 2020
New York, New York



Ronnie Abrams
United States District Judge